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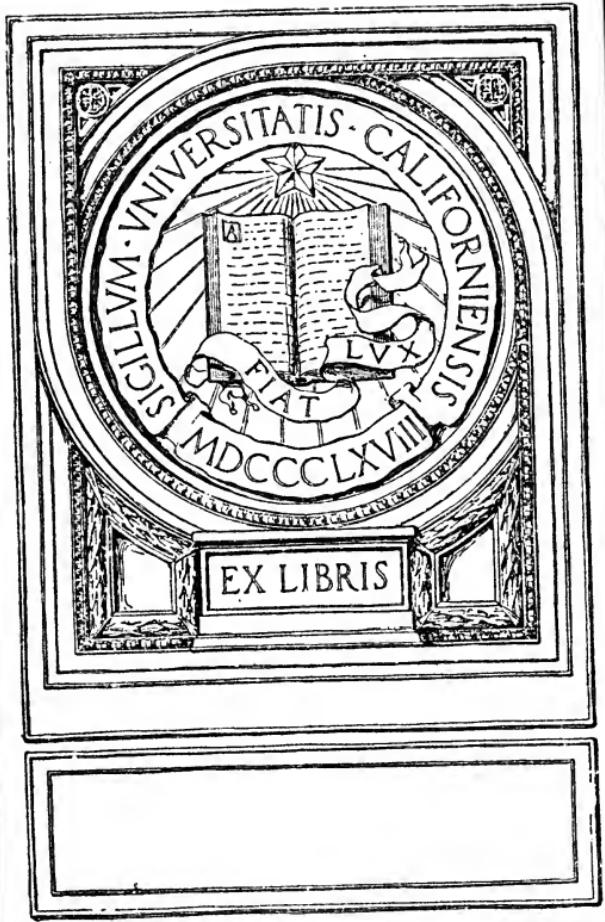
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JANUARY, 1909
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AND ETHICAL RECORD

The Right of Political Asylum Threatened

FELIX ADLER
AND
WILLIAM M. SALTER

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THE RIGHT OF POLITICAL ASYLUM THREATENED

A FEW words of explanation may be offered of the circumstances which have led to the republication of the two following lectures by Felix Adler and William M. Salter.

The Russian Extradition Treaty of 1893 has made America the unconscious tool of the Czar's autocracy. This possibility was foreseen by such lovers of liberty as George Kennan, Felix Adler and William Salter at the time the Treaty was concluded. Since the ratification of the Treaty, the Russian people have gone through a heroic revolution. In it the blood of martyrs has been generously spilt, while the atrocities perpetrated by the Russian government can only be compared to the exquisite cruelties of the Inquisition.

A policy of treacherous concession brought about the Czar's manifesto of 1905, which proposed to offer some fundamental constitutional rights;—freedom of speech, the right of assembly, and electoral rights. Three Dumas have been formed, each more farcical in its basis of popular representation than the other. The self-sacrifice of the finest flower of the Russian youth has still borne no actual fruits.

The autocracy is intrenched; for in the two years since the Czar's manifesto of 1905, 18,374 persons were condemned for political offences. Of these, 2,717 were sentenced to death. During the months of January and February, 1908, 500 political offenders were executed. An official document, signed by thirty-five members of the second Duma is authority for such heartrending facts as these! From December, 1905, to June, 1906, 1,170 per-

sons in the Lettish region alone were executed without trial. This document further accuses the government of torturing the politicals in order to wring "confessions" from them. The absence of any semblance of legal procedure in these cases is abhorrent to those who have been nurtured in the spirit of our free political institutions. And now, conscious of its security at home, the Russian autocracy has ventured to commit barbarity abroad. It has caused two Russian peasants to be arrested,—Jan Janoff Pouren in New York, and Christian Roudovitz in Chicago. In both these cases, the Russian government has manipulated the harmless treaty of 1893, and in accordance with its "innocent" provisions, has charged them with common felonies. Yet, despite the opinions of some of those most learned in the law, that the defence has supplied ample evidence that Pouren and Roudovitz were participants in the revolution, and that these acts, if committed at all, were of a purely political character, they have been incarcerated in American jails. Whatever may be the fate of these peasants, it is clear that the Russian government is utilizing this treaty to hound its patriots abroad, and to deny them, if possible, our time-honored right of political asylum. A fundamental moral issue is here involved. Hence, the prophetic protests of Prof. Adler and Mr. Salter; and hence the appropriateness of making their addresses available.

A PROTEST AGAINST THE RUSSIAN TREATY*

BY FELIX ADLER.

THE feeling of good-will between the United States and Russia is of long standing, and has become, so far as we are concerned, almost a part of our national tradition. It is founded in part on valuable service rendered in the past, in part on more general grounds. Likeness of situation begets sympathy between peoples as well as individuals. The Russian nation, like our own, is a nation in the making. After long ages of subjection to a foreign rule, after centuries of intellectual tutelage and dependence on foreign examples, Russia to-day claims for herself a pre-eminent place among civilized states, and the most ardent of her patriots aspire to add to the world's stock of thought and experience a unique contribution of their own in harmony with the peculiar character and endowments of the Russian race. Already a marvellous literature has been produced which has spread far beyond the confines of their empire. The works of Tolstoi, Tourguenef, Gogol, and many others have been translated into every tongue and are read in every zone, and these are but the fair beginnings, giving promise of mightier developments to follow. The Russian people, moreover, are like our own in this, that they have before them a vast continent to be subdued. The Russian Empire includes half of Europe and Asia, and covers one-sixth of the land surface

*An address delivered before the Society for Ethical Culture of New York, Sunday, March 26th, 1893.

of the globe. In this immense extent of territory there are boundless vacant spaces to be filled by colonization, latent resources of incalculable value to be developed, and splendid fortunes seem to beckon on the pioneers. Whatever turn affairs may take, this much is certain, that we at the present day are but at the beginning of human history, and that the growth of Russia will powerfully affect, for good or evil, the future destinies of mankind.

Considerations such as these suffice to explain the instinctive sympathy that subsists between the Rusian and American people, widely separated as they are, as well in point of space as in manners, habits of thought, and institutions. And, in what I shall have to say to-day, I desire that nothing may be construed as reflecting upon this sympathy, or as intended to lessen the kindly feeling toward a people which, whatever its faults may be, possesses so many generous qualities that challenge respect and admiration. But we are bound to separate between the people and the government.

—> The occasion which calls forth my remarks to-day is the negotiation of a treaty between the President and Senate of United States and the government of the Czar, under the terms of which an attempt upon the life of the Russian Emperor shall not be considered a political crime, and Russian Refugees in this country against whom a *prima facie* case of complicity in such an attempt can be made out shall be extradited. What is there in the nature of such an agreement, it may be asked, to excite protest? Do we desire that this country shall harbor anarchists? Does any sane man, any man whose moral judgment is not distorted approve of murder? Do we wish that persons who use criminal means for the attainment of political ends, self-constituted defenders of popular rights, shall make this land their asylum? Why, then, should

we remonstrate on behalf of a class of persons so odious and pernicious? Opinions like these one often hears expressed by persons who betray but a superficial acquaintance with the issues involved. In order that the true bearings of this treaty may be understood, it is necessary before all things to examine into the nature of the government with which we are about to enter into these engagements, and to a preliminary sketch of this sort, I have to ask your attention.

Among all the nations of Christendom, Russia is the only one the government of which has remained an absolute autocracy. It is difficult for Americans to imagine how an autocratic government operates, so utterly alien is it to their sentiments and principles. In Russia, the will of one man is law and the source of all law. With the exception of the provincial assemblies, the *Zemstvos*, whose functions are restricted to local affairs, there are no representative bodies that express the will, or even voice the wishes of the people. There exist, indeed, two political organs, the Senate and the Council of the Empire, the names of which might suggest a certain limitation of the autocratic power. But the Directing Senate, founded by Peter the Great, has ceased to direct and has become a judicial chamber solely; while the Council of the Empire, created at the beginning of the present century, is permitted, indeed, to discuss laws, but has no share in their enactment. Its function is limited to giving advice. It cannot even make recommendations to the Czar as a unit, for the opinion of the minority, as well as the majority of its members, must be laid before the Emperor, and it is for him to adopt either opinion, or to disregard both, as he prefers. The Council of the Empire, therefore, is in no sense a check upon the unlimited sovereignty of the Czar. Its members, moreover, are appointed by the Em-

peror himself. They are his creatures, dependent upon his will. How, then, can they be expected to oppose his wishes?

Again, in many monarchial countries, the Ministers—and especially the Prime Minister—exercise a species of restraining influence upon the action of the King. But the Russian Czars permit in their vicinity no Prime Ministers to grow up, and perhaps to overshadow them, as Bismarck overshadowed his King. There is no Cabinet of Ministers. Each minister is independent of his colleagues. He may decide on matters that involve the general policy of the Empire without their knowledge, and is often secretly at war with them. It has frequently been the policy of the Czars to foment these jealousies and rivalries among their immediate advisers on the principle of “divide et impera,” in order to prevent any one of them from gaining an ascendancy which might in the least hamper the full, free sweep of the imperial will.

The Russian system is a kind of paternalism carried to the verge of the absurd. The theory is that the people are children, minors, and that the Czar is their father. A Russian is not allowed to leave the country without having first received the permission of the Czar. A Russian merchant, peasant, or workingman is not allowed to travel for a distance of more than a few miles from his place of residence without father's permission. The Russian is not allowed to read what he pleases, but, by the imperial censorship, a catalogue is published of books which it is not safe for him to read, just as parents carefully select the reading matter for their children, so that nothing shall fall into their hands which can harm them. The Russian is not even permitted to perform certain acts of charity on his own motion. No one may found a bed in a hospital, nor a scholarship in a school, without first

asking the permission of the government to do so. Under the Emperor Nicholas it is said that no one was allowed even to build a house, if it had more than five windows, without first obtaining the authorization of the Czar. Thus the figure of the Czar everywhere looms up, huge and overawing—like one of those statues of the ancient Egyptian Kings which we see in museums—and fills the whole political horizon.

But, it will be asked, does not the press serve in Russia, as everywhere else, to restrain the abuses of power? Does it not give expression to the wishes of the people, and bring the grievances of the governed to the notice of their rulers? The Russian press can render no such service, because it is itself bound and gagged. The journals are permitted to treat literary and scientific subjects, and to discuss, to a certain extent, the politics of foreign countries. But the moment they touch on domestic affairs, they do so at their peril. The slightest indiscretion will bring upon them the most drastic measures of administrative repression. Sometimes a newspaper appears with many or even all of its columns blank, the copy having been cancelled, by official order, and nothing remaining but the advertisements. Sometimes, on the other hand, the right of printing advertisements is withdrawn, and the journal is thus crippled in its financial resources. At other times, the sale of a newspaper on the streets is forbidden. Or an obnoxious editor is forced, under government pressure, to resign, and, if he should attempt to resist, is quietly sent into exile to reflect, on the frozen shores of the White Sea, or in distant Siberia, on the folly of unseasonable candor. Under such circumstances, how can the press serve as the champion of freedom, or as an agent in the redress of popular wrongs?

Now, what have been the fruits of this system? They

have been such as might be expected, such as a system of this kind can alone bring forth. The finances of the Empire, despite its vast resources, as is well known, are in a precarious condition. The serfs, it is true, have been emancipated by the father of the present Emperor; but how has emancipation thus far profited them? The government has poured seven hundred millions of rubles, in the shape of redemption money, into the lap of seventy-one thousand proprietors. But the great mass of the peasants have not been benefited. A few wealthy persons have been still further enriched. The great multitude has been more deeply impoverished than ever. The allotments of land assigned to them are insufficient for their needs. They are victimized by crafty speculators and rack-renting landlords. Every year one-half the adult male population leave their homes and wander through Russia, a vagrant army in search of labor and subsistence. The famine decimates their ranks, and the cholera finds among them a congenial soil.

A people can only be strong if it be free, and to use freedom aright education is indispensable. The great mass of the Russian people are ignorant, uneducated, and illiterate. The government, perceiving the necessity of raising the educational level of the people, has founded universities and schools. But, by one of those singular contradictions which one meets with so often in this unhappy country, it has withdrawn with one hand what it offered with the other. The love of liberty, that is nourished in the higher educational centres, has provoked the hostility of the authorities. Many a time the universities have been closed, the students persecuted, and the curriculum of studies interfered with and restricted, and while the means which have been provided for popular education are altogether inadequate, the government jeal-

ously debars private individuals from establishing schools which might supply the deficiencies of its own provisions to this end.

In addition to the evils already signalized, corruption reigns to a degree almost incredible. The whole government service is honeycombed with it. A system of police espionage has been devised which penetrates even into the sanctuary of the family. The mails are habitually tampered with, so that even high government officials do not dare to entrust their secret correspondence to the postal service. And, above all, religious intolerance of the fiercest and most unrelenting kind has full sway under the present incumbent of the throne. It is said by those who profess to speak from knowledge that the Emperor Alexander the Third is a man of irreproachable personal habits, of the strictest principles, and fully imbued with the belief in the sacredness of his mission. The powers of an autocrat, when united in the hands of an honest fanatic, are infinitely more to be dreaded than when entrusted to a more worldly and less sincere nature. Every scruple that might plead on behalf of humanity is quelled by the counsels of bigotry. Every obstacle to the execution of those counsels is removed by the possession of despotic power.

Is it to be wondered at that, under such a system, with such a nightmare pressing on the breast of the Russian people, there should have arisen in certain quarters a cry of protest; that, among the young, the hopeful, the intelligent, the students of the superior schools and universities, combinations should have been formed with a view of shaking off the yoke under which their country has suffered so long, and is still suffering. Russian nihilism is the legitimate offspring of Russian despotism. The Russian nihilists are not to be confounded with those insane

anarchists who are bent on destruction, reckless of consequences. The Russian nihilists, it cannot be denied, have been moved by a patriotic motive. In the beginning, their methods were mild and gentle enough. They acted the part, as has been said, of Christian evangelists. They mingled with the peasants. They stripped themselves of the privileges of their superior station. They led the life of hardship and privation. They sought, by teaching and by the spread of literature, to prepare the common people for that better political and social state of which they dreamed. It was only when the authorities, by the employment of the most violent measures, checked this peaceful propaganda, when the Russian patriots beheld their brothers buried in the depths of Russian prisons, or condemned to the horrors of Siberian exile, that one section of them, the extreme section, determined to meet violence with violence. At first, their retributive measures were directed against the agents of the Czar—the Chief of Police and the Governors. And it was when these measures failed to procure relief that their attacks were finally turned against the Emperor himself. In a country like Russia, there are only two ways open by which a change may be effected. The one is to work from below upward; the other from above downward. The one is to disseminate liberal ideas among the people at large and to prepare them slowly for a political transformation. The other is to induce the person in whom the sovereign power is vested to grant of his own accord liberal institutions to the nation. The former way was blocked by the Czar himself. As to the latter, the nihilists might well be tempted to ask how an autocrat who believes that he rules by divine right could be induced to divest himself of even the smallest fraction of his power? Should it be by arguments derived from reason? Should it be by petition

or by entreaty? All these methods had been tried, seemingly without avail. And hence they reached the conclusion that the only way to influence him would be through the motive of fear, that he must be terrified into letting go a part of his power. And it was in this way that a section of the Revolutionists became, in the literal sense of the word, "terrorists." I am not here to discuss, much less to defend their methods. The system of terror which they tried seems not to have produced the results they expected. But it seems to me equally impossible to deny that their actions were inspired by political motives, and that whatever crimes they have committed are to be classified and characterized as political crimes. If, then, the treaty now pending with Russia declares that attempts upon the life of the Czar shall not be regarded as political crimes, but shall be treated as ordinary murder, the position therein taken seems to me an untenable one. This position would be valid in the case of a liberal, or quasi-liberal government like that of Belgium, with which a similar treaty is already in existence. But it is not valid in the case of Russia. For, in Russia, an attack upon the government is an attack upon the Czar, and an attack on the Czar an attack on the government. For the Czar is the keystone of the governmental arch. Nay, he is himself the government, the fountain-head of power, the source from which all authority whatsoever throughout his vast dominions is derived. The rule that nations do not surrender fugitives for political offences is now well established and generally accepted. All that it is necessary to prove, in the present instance, is that attempts against the life of the Czar are dictated by political motives; that those who make such attempts are political offenders, and not ordinary criminals. That this is so, I, for one, cannot doubt. Nor must we make the mistake of

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supposing that a refusal to surrender in the least implies the condoning or the approval of the offence or crime in question. The Swiss Republic in 1871 refused, in answer to a request by President Thiers, to extradite the Communists who had fled for shelter to its territory. And this decision was taken not because we can for a moment believe that the members of the Federal Council approved of the methods of the Communists, but because they believed that the actions of these persons, however hateful they might be, were prompted by political motives, and that the right of asylum for political refugees ought to be kept inviolate.

But, it has been said by Lord Stanley¹ that "the principle of non-surrender for political offences being conceded, it is however clear that immunity from punishment should not be granted to those who, not political refugees properly so-called, have committed murders, or other grievous crimes in furtherance of some political object when a state of recognized war or open revolt has not existed." It is contended that "mankind turns with disgust and reprobation from the inhuman use of assassination as a means in the furtherance of a political object." Admitted that this is so. But is not the case of the Russian nihilists altogether a peculiar one? There is a fable which tells that an eagle once seized the cub of a fox and carried it away in its talons, and that the fox in her desperation took a firebrand to throw into the eagle's nest in order to force him to let go her young. Shall we condemn the barbarity of casting a firebrand into the nest of an eagle and forget the cruel act which provoked such retaliation? Shall we have eyes to see only the inhuman methods of the nihilist fox and forget the inhumanities of the autocrat eagle? Shall we forget the silent hosts of martyrs who have wet-

¹See for this and following quotations *Moore on Extradition*.

ted the snows of Siberia with their blood? Shall we forget the mental, the moral, and, as some say, the physical torture inflicted by Russian jailers on their victims? Shall we forget the flogging of cultivated men, aye, and women? A hundred blows of the lash on a frail and shrinking woman's form! Shall we forget the barbarous treatment of the Jews whom the gloomy despot, who sits on Russia's throne, is persecuting in obedience to his fancied mission on behalf of the orthodox faith? The heart of every lover of his kind bleeds within him when he witnesses such cruelties as these. We cannot change the course of the Russian Czar. It is not legitimate, we are informed, to interfere in the internal affairs of a foreign state. If Russia were a small state, like one of the Balkan Principalities, the whole civilized world would long since have interfered in its internal affairs. But, in the case of Russia, this is impossible. The Czar is too mighty, and we are too far away to bring aught but feeble pressure to bear. But, if we cannot punish the tyrant, neither should we assist in punishing those whom his tyranny has driven to desperation. The fact is that in Russia autocracy and nihilism are engaged in a life and death duel. And we may well take the ground of observing at least neutrality between them. If the Russian government can apprehend those who attack its murderous despotism with murderous weapons, we cannot intervene to save them. But, if those whom it pursues make good their escape to our shores, neither in that case should we interfere to help save the Russian despotism. The Nihilists, moreover, it should be remembered, do not sanction assassination as a political weapon, except under desperate circumstances like theirs. When Guiteau shot the President, the organ of the extreme Radical Party spoke out in the strongest

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condemnation of the act, saying that, in a free country, such methods ought not for a moment to be tolerated. The Russian Nihilists have solemnly and repeatedly declared that they will lay down their arms the moment the Emperor grants representative government to his people. Representative government is what they demand. This is the aim which constitutes the objective point of their agitation. But the desire for representative government is a political motive, if ever there was one. And hence, I take the ground that Russian refugees, even when they have been guilty of an attempt on the life of the Czar, should be regarded as political offenders, and, under the rule accepted by all civilized nations, should not be extradited.

"But this argument by no means exhausts the case. Let us not forget that what we are asked to do is not to surrender those whose guilt is established, but those against whom a *prima facie* case can be made out on evidence furnished by Russian officials. In extradition cases the presumption is always in favor of the demanding government, as appears in the fact that the demanding government is allowed to produce documentary evidence and witnesses, while the accused person is not allowed documentary evidence, but must rely solely upon his witnesses. How then shall a Russian refugee in this country procure witnesses to establish his innocence? All that is necessary to extradite him, is that a *prima facie* case be made out against him on such evidence as is furnished by Russian officials. And, therefore, it is extremely important to know what value can be assigned to such evidence."

Now here I am compelled to allude to a very dark side in the picture of Russian life. The curse of Russian life is venality. I quote from Leroy Beaulieu, who lived in Russia, had access to the best sources of information, and

whose work on the Empire of the Czar\$ is considered an authority.

In his second volume he says: "From the time of Peter the Great to that of Alexander the Third the administration, the finances, the army, the whole public service has been a prey to peculation, malversation, fraud and corruption in all its forms. If one desires to be understood by an official, it is necessary, says the proverb, to talk ruble." There is a saying among the people that "in Russia everybody steals." He tells the story of a doctor who was examining a conscript and who said to him, "I know that you are sick and ought to be excused from serving, but unless you pay me I will declare you sound." He tells us that, at the close of the late Russo-Turkish War enormous frauds having been discovered on the part of contractors who had furnished clothing and provisions to the army, the government did not dare to bring the offenders to trial on account of the complicity of high functionaries in the nefarious practices. The ruble, he says, opens the gates of the imperial palaces as well as the bureaus of the lowest employes of the province. Grand Dukes, placed at the head of the army and the navy, hardly inspire more confidence than the ordinary Bureaucrats. Integrity and disinterested conduct are almost always regarded as exceptional. Neither rank nor birth protect from suspicion. Even the immediate surroundings of the sovereign are not always exempt from it. But it is especially the agents of the police that have acquired an evil reputation for bribe-taking and corrupt practices. Many of them are extremely ignorant. In an inquiry instituted at the beginning of the present reign, it was found, that a large number, even of the police of St. Petersburg, could not correctly write their own name. They are under-paid. They wield enormous power—especially the secret police, the

agents of the infamous Third Section which has been abolished in name, but not in fact—and they use their power to terrorize and blackmail the innocent and the guilty alike. Now, it is on the evidence furnished by such officials, or by witnesses controlled and influenced by them, that a *prima facie* case against Russian refugees in this country will be made out. In view of the facts stated, can we have any confidence in evidence that comes from such a source, especially if we remember that it is the interest of the Russian officials to display zeal on behalf of their government by dragging into their net as many of its opponents as possible, be they guilty or not, whenever an occasion presents itself to do so.

But, it has been said on the part of the defenders of the treaty—and the greatest possible stress is laid on this point—that the evidence, in extradition cases, must be such as, according to the laws of the place where the fugitive is found, would justify his commitment for trial if the crime charged had there been perpetrated. In other words, if a Russian, accused of an attempt upon the life of the Czar, be found in the state of New York, he may not be surrendered unless the evidence produced would suffice to secure his commitment for trial according to the laws of the state of New York. Granted that this is so; yet the proof required for commitment is much weaker than that required for conviction. The cardinal distinction between commitment and conviction must not be lost sight of. Our magistrates need to have before them only such proof as would justify them in committing. And what sort of proof may that be? Chief-Justice Marshall said, "I certainly should not require the proof which would be necessary to convict a person on a trial in chief. I should not even require that which would absolutely convince my own mind of his guilt. But I ought

to require, and should require that probable cause be shown." Or, as an English Attorney-General put it in the House of Commons, "The laws of this country require that a person shall be committed only on such evidence as, if *uncontradicted*, would lead to the conclusion that he is guilty." Now, herein lies the gist of the whole matter. Extradition in its operation is equivalent to commitment. Commitment is only warranted when the accused person, after he has been committed, has an opportunity of contradicting the evidence which if it remained uncontradicted would have convicted him; or, in other words, if, after commitment, a fair trial is accorded to him. Now this, it seems to me, is the strong point, the ineluctable point, the invulnerable point of our protest against this treaty. *that a fair trial is not accorded in Russia to a political offender after he has been extradited.* Everyone knows what the Russian procedure is in such cases. The person charged with an attempt upon the life of the Czar is summoned before a court martial, or a special commission. He is deprived of the right of trial by jury. At his trial the public are not admitted. The newspapers are not permitted to report the proceedings, or such reports as are allowed to appear are supervised by the authorities. The accused person is not confronted with the witnesses that testify against him, and he is denied the right of appeal. Oh, the inconceivable arbitrariness, cruelty and injustice of such procedure! Of what avail is it then, that the initial part of the proceedings takes place according to all the forms of law in an Anglo-Saxon community, if the latter and graver part of the proceedings takes place in a community in which the safeguards of law are trampled under foot! Of what avail that commitment takes place according to the laws of the state of New York, if conviction takes place according to Russian code! This com-

bination of commitment in America and conviction in Russia seems to me like that hideous being described by poets, half woman and half fish. Fair it is, and gracious, and seductive in the part that emerges above the water, but foul and abhorrent in the part that is concealed from view. So that part of the proceedings which takes place on this side of the water is fair enough and right enough, and therefore has seduced many minds to give their consent to such a treaty as this. But, the part of the proceedings that takes place beyond the waters is brutal and abhorrent. And this is all the more true because, when we have once extradited an accused person, he disappears from our sight. We may never know what has become of him. He may have been executed within twenty-four hours after his so-called trial. He may have been extradited on a charge of attempted murder, which, however, cannot be sustained, and sentenced to death on a totally different charge. He may, if his innocence be so absolutely clear that even a Russian court martial cannot convict him, nevertheless be deported to Siberia by that unique and terrible engine of despotism which is called Administrative Process. And whatever is done is done in the dark, in silence,—we shall never be the wiser for it. We have done our duty toward the Russian Czar. We have extradited the men he wants. He will look to the rest. There is no provision made that the United States Legation shall be notified of the fate of extradited persons. To request such notification would be contrary to international courtesy, since it would seem to imply a suspicion of the judicial proceedings of a friendly power. And here, indeed, the weak point of this treaty is fully disclosed to view. Extradition treaties, it has been said, are based on the principle of good faith. With countries, like Belgium, on whose good faith we can rely, let us

have such treaties ; with countries in which exist the guarantees of individual liberty ; with countries which have the habeas corpus, as Russia has not ; with countries which grant jury trials to political, as well as to all other offenders ; with countries in which, commitment being based on evidence which, if uncontradicted, will ensure conviction, the accused has an opportunity to contradict such evidence and thus escape conviction. But, with a country like Russia, in which all these safeguards are wanting, on whose good faith we cannot rely, I do not see how we can enter into such a compact as this.

There remain two minor points to which I must briefly advert. It has been said, in defence of ex-Secretary Bayard, who entered upon the negotiation of an extradition treaty with Russia six years ago, that its object was merely to accord to the Czar the same protection against murder which is accorded to any ordinary citizen ; that it did not confer any special privilege upon the Czar, but merely assured him the same rights as would be enjoyed by any of his subjects. But this contention ignores the fact that, in Russia, capital punishment for ordinary murder has been abolished since 1753, and that the death penalty is applied solely in the case of political criminals. Hence, it is not true that, by the terms of the treaty, the Czar is merely assimilated to any ordinary citizen, the punishment for an attempt upon his life being severer than that which would follow an attempt on the life of any of his subjects. Even a parricide is not subject to the death penalty in Russia. A czaricide is. And, further, the defence ignores the fact upon which, as I have shown, everything in this argument hinges, that a political criminal is tried in unusual courts. And it is a maxim of International Law, enunciated at the session of the Institute of International Law in 1880, at Oxford, that, in every case,

extradition must not be granted for a crime which has, at the same time, the nature of a political crime and of a crime under the ordinary law, unless the state making the requisition gives the assurance that the person surrendered shall not be tried by unusual courts. It is upon the ground that in Russia political criminals are tried in unusual courts that we rest our protest against the treaty.

But it has been said by some that it is to the interest of the United States to grant extradition to Russia, in order that we may secure extradition in return if the life of any of our Presidents should ever again be attempted by an assassin. To this I reply by asking whether there really exists a parallel between the two countries in this respect. In the first place, let me call attention to the fact that both in the case of Guiteau and Booth the assassins were apprehended before they had had time to escape across the border. There is here a great difference between a country like ours and a country like Russia. In Russia the police are isolated. The people, as a rule, do not lift a finger to aid them in their search. And it is precisely for this reason that so many of the Revolutionists escape. In this country, almost every citizen would constitute himself a special officer of police to pursue and apprehend the murderer of a President. The people themselves frown upon violent methods, either on the part of the governed or of their governors. The people themselves will stamp out such methods if ever it be attempted to introduce them amongst us. But, secondly, even assuming that another Guiteau should have succeeded in making good his flight, should have avoided all those countries with which we have extradition treaties, and should have found shelter in Russia, do we need to learn from the lips of a Russian Empress the humane rule that "it is better to let ten guilty persons escape than to punish one that is innocent."

It is for us to consider whether we are willing to aid in punishing those who may be innocent, whether we are willing to hand over to Russian court martials and special commissions those who will be denied the ordinary means of establishing their innocence. This is the sole question which we are called upon to decide.

It is difficult to imagine what may have been the motives which have influenced American diplomacy in the negotiation of this treaty. It has been suggested by an organ of the late administration in this city that it would be greatly to the interest of the United States to be able to rely on the powerful backing of the Russian fleet in any designs we may have respecting the annexation of Cuba, or of Canada, or of the Islands of the Pacific. It has been suggested by others that the friendship of the Russian government is of importance to us in the Behring Sea controversy. Is then this treaty a Yankee bargain? Are the Refugee-Revolutionists to be thrown as a sop to the Russian Cerberus, in order that he may show his teeth on our side? I cannot believe for a moment that this has been the motive. The admission would be too humiliating.

Is it then ignorance of Russian conditions? This seems, on the face of it, a more probable explanation. It appears to be difficult for many Americans, even for some American statesmen, to realize conditions so utterly at variance with those to which they are accustomed,—methods of judicial procedure so utterly opposed to what we regard as first principles. And what men cannot imagine they are apt to ignore. What they cannot realize they often treat as if it did not exist.

Or has perhaps the uneasy feeling that widely pervades the American people been operative in the negotiation of this treaty, the feeling namely that Anarchism is a pest, that Anarchists are enemies of mankind, that the sooner

we can rid ourselves of them the better ; that, if the Czar of Russia is willing to take them off our hands, we should be glad to deliver them over to him to deal with them as he may see fit ! But this sentiment is most unjust, as applied to the Russian Revolutionists. They are not, as I have already said, to be classed with the Anarchists. Severely as we may censure their methods, they are not enemies of law and order. On the contrary what they aim at is the establishment in their country of law and order, in place of arbitrary and capricious despotism. *What they demand are those same free institutions which we have long enjoyed.* But, even if they were Anarchists of the most detestable kind, I should still maintain that we may not, in their case, set aside, or connive at the setting aside by others of those invaluable safeguards of justice without which the innocent may at any time be merged with the guilty. I should still protest that we ought not to deliver over even Anarchists to a power which will not give them a chance to prove their innocence, if they be innocent ; which will not grant them trial by jury ; which will not confront them with the witnesses that testify against them, which denies them the right of appeal. But, as I have said, the Russian Revolutionists, as a class, are by no means to be stigmatized as Anarchists. They desire freedom. They look to the United States to cheer them on in their attempts to secure freedom. Shall the United States league itself with their oppressors ?

But, it is said, of what use is it to protest ? The treaty is all but signed and sealed. It is true, the treaty has been discussed and adopted in executive session by the Senate. The doors have been closed against the people, and the proceedings have been shrouded in mystery and secrecy. But, with perfect respect for the Senate, I venture to assert that the American people are still the rulers in this

land, and that if the American people are opposed to this treaty and desire to see it abrogated, the Senate will not resist their will. And already, the waters of public opinion are being stirred in this matter. In Boston, old-time abolitionists, whose names have acquired a national reputation, have spoken with no uncertain sound. The Legislature of the state of New York, during the past week, has adopted a resolution condemning the treaty; and some of the most conservative citizens of our own metropolis have echoed this protest. I trust that this agitation will go on. I believe that the public need only to be instructed as to the issues really at stake in order to take the right attitude on this question. I believe that our fellow-citizens will not lend themselves as auxiliaries to the Czar in hunting fugitives on American soil. I believe that the ship does not sail the sea which is destined to carry back such fugitives to the Russian shores. And I denounce this treaty as repugnant to the tradition of American freedom, as contrary to the best interests of civilized mankind, as an unnatural compact between the freest government on the face of this earth and the most arbitrary—a compact which, if it had been signed and sealed a thousand times, will yet be nullified by the indignant reprobation of an enlightened and liberty-loving people.

AMERICA'S COMPACT WITH DESPOTISM IN RUSSIA*

By WILLIAM M. SALTER.

WE have not only duties as individuals, we have duties as citizens. Here in America we are citizens of a free State, and what our government does it is supposed that we do, too, or at least a majority of us. Particularly is this true when our government deals with foreign governments; for in this the people act as a body; we stand before the world as a unit, and we cannot say that our representatives have done so and so, and we have no part in it. If we do not protest, we are supposed to agree. Happily, we may suppose that our government ordinarily does right, that our representatives act wisely, judiciously, more wisely than we, less well-informed, less skilled in public affairs, would act ourselves, and that, as standing in the place of the fathers of the republic, they are animated by the love of liberty and the hatred of oppression. But it is possible that they should err, it is possible that they should temporarily even forget the great principles for which a free people should stand, and when this happens it is not only the right, it is the duty, of the private citizen to protest.

In my judgment such a situation has now arisen. The United States is now entering into a compact with a despotic government which cannot be sanctioned by, and could not have originated with, those who are supremely

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solicitous for the cause of freedom and the rights of man, unless, indeed, they are unaware of what they are doing. I refer to the treaty with Russia. To speak exactly, it is not a treaty with Russia, but with despotism in Russia. The Russian people are not represented in their government; it is not a government by them, but over them; it does not exist by their consent, nor does it serve their interest. Force established it, and force maintains it. The Russian people are not without lovable traits, and nothing that I shall say must be construed against them; could a treaty be made with *them* to protect them from oppression, no one would object; but the aim of this treaty, in which our government has consciously or unconsciously acquiesced, is to make the grip of the oppressor still stronger upon them.

The treaty of which I speak—and which only awaits an exchange of ratifications to become law—is doubtless in its main parts made up of excellent provisions, or such as would be, in case it were a treaty with a civilized and constitutional state. That men should be punished for the crimes they have committed, for murder, robbery, forgery, and the like, and that, if they escape from the country in which they committed them, they should be returned there from the country to which they have fled, is in the interests of civilization. The United States has many such treaties, and should have them, so far as other countries have safeguards by which the accused person is secured a fair trial. But almost all treaties between civilized countries contain also the provision that those guilty or accused of political crime shall be regarded differently, and shall not be returned by the country in which they have taken refuge to the country in which the crime was committed. The crime may be outwardly the same as common crime; it may be taking life or destroying

property, but if it is done in civil war or in the course of insurrection or political commotions, it is placed in a distinct category, and though it may be punished more severely than common crime in the country in which it takes place, it is viewed with different eyes outside. Governments, it is felt, are fallible institutions; they may even be unjust, oppressive, iniquitous; they have not the sanctity about them, that immediate unconditional claim on our respect, which human life, in itself considered, has; offences against them may be serious to the government concerned, but not necessarily to the outside world. In any case the company of modern civilized peoples is agreed that there should be no extradition of political criminals. We ourselves as a people were once engaged in a political crime; our forefathers were guilty of treason to the English government; they killed English officers; had they been unsuccessful, some of them, the leaders, would probably have been executed. But we can hardly regard the crime as a heinous one, nor did the world at large think so at the time. To attack men as representatives of a government is a totally different thing from attacking them as private individuals; to kill from private malice is common murder; to kill to overthrow a government may be wise, may be unwise, may be right, may be wrong—however this may be, it is another sort of act, and is differently treated in the law of nations. The common custom is for the contracting governments to agree to give up ordinary offenders, and either to expressly state, or to imply by silence, that political offenders shall not be given up, leaving it to the government on whom a request is made to say, in any doubtful case, to which of the two categories a given offence belongs.

Now, the treaty with Russia takes it out of the power of the United States government to decide whether cer-

tain offences in Russia belong to the category of political offences or not. This is its language:

"An attempt upon the life of the head of either government, or against that of any member of his family, when such attempt comprises the act either of murder, or of assassination, or of poisoning, shall not be considered a political offence, or an act connected with such an offence."

That is, if an attempt is made on the life of the Czar,—for we may leave out of account an attack upon the head of our own government, as no such offender would be likely to go to Russia for refuge,—and if the offender comes to America, then even if our government—that is, the magistrate or judges before whom the case comes up—is convinced that the case comes properly under the category of political crime, and is not common murder, it would none the less have to call it common murder and to extradite the criminal. It would have no choice, for its hands are tied by the definition of the treaty. It cannot say the crime may be simple murder or it may have a political character, and then proceed to examine the evidence, and, according as it preponderates the one way or the other, give up the offender or refuse to give him up. The United States has already prejudged this question; according to it there is no possibility of an attempt on the life of the Czar that may be properly reckoned a political offence, and no offender of this description that shall not be given up. This is accordingly the ground I take, and I trust it will be distinctly observed. I do not say that attempts on the life of the Czar may not be murder in the ordinary sense, and that offenders of this sort should not be given up (supposing for the moment that Russia is a fit country to treat with at all); I do say that the United States should have the right to sit in judgment upon a given case and say to which category it belongs. Under

the veil of secrecy, under a cloak of darkness absolutely impenetrable until within a few days, it has done (or will have done when the treaty is promulgated) something that no free nation on the face of the earth has been ignoble enough to do (for semi-despotic Germany alone has a treaty with Russia to be compared with it); it has done what England would scorn to do; it has abdicated its sovereign right—a right which a free nation, above all, should sacredly guard—to say whether given crimes are political or are not, and all to the end of showing its sympathy with the Czar,—a man who, were he on the English throne, would (if the old method of punishment continued) have his head speedily laid on the block.

But will some one hold that there *is* no possibility that an attempt to assassinate the Czar should ever have such a political complexion as to anywise extenuate it or take it out of the category of utterly inexcusable crime? I think we should say this (or come very near it) of the Queen of England, or of any President of the United States, that we have ever had, or, I trust, are likely to have; and the government of the United States evidently thinks that its head and the head of the Russian government are on an equality in this respect, for it says, “An attempt upon the life of the head of either government,” as if the two were on a par. But to my mind this confounding of unlike personages into which the treaty falls is a part of the disgrace of it. As men the President of the United States and the Czar of Russia are equal, and should have the same protection of their rights; but as President and Czar, the one is a friend, the other a foe, of human liberty. The consideration that is due to our President, or to any head of a constitutional state, is not due to the czar. The crime that would have nothing to extenuate it if directed against Mr. Cleveland or Queen

Victoria, might have something to extenuate it if directed against Alexander III., or any heir of his who rules in his spirit. I say simply "might;" whether there *would* be any extenuating circumstances is a question of fact, not of possibility; any case, if unhappily one should arise, would have to be judged on its own merits. The assassination of Alexander III. might, of course, be as foul a murder as that of President Garfield; but shall we therefore say that it *could* not have a different character? The United States government virtually says so; it says that the assassination of a Czar is *ipso facto* mere common-law murder. Is the government right?

To answer this we have to look to history, and particularly to the Russian situation. The moral sense of humanity has always been shocked at an act of assassination in itself considered, more so than at open murder, since it adds an element of secrecy and of stealth that are peculiarly abhorrent; but almost always it has felt that if the violence was against an enemy of freedom, and was done to serve the cause of freedom, the complexion of the deed was somewhat changed. When we read in the third and fourth chapters of Judges that, to free Israel from subjection to Canaanitish princes, Ehud and Jael resorted to stealth, and with dagger and nail killed Eglon and Sisera, we may condemn the acts; but we do not call them common murder,—and Israel glorified them. In a similar way, according to an apocryphal book, Judith struck down Holofernes, the Assyrian general, first bewitching him by her beauty. Or, if these are instances from barbarous times, what shall we say of the Greek feeling about Harmodius and Aristogeiton, who slew the Athenian general Hipparchus? Harmodius, a beautiful youth, was cut down on the spot, and Aristogeiton was soon captured and tortured to death; yet, when Hipparchus was

expelled they became the most popular of Athenian heroes; their statues were set up on the agora, their descendants were exempted from public burdens, and their names were celebrated in popular songs as the deliverers of fair Athens. Whatever we may think of Brutus's act, however foolish or however criminal we may call it, who will say there was nothing to extenuate it,—that it was utterly execrable, that it belongs to the same category as a murder in a street-brawl? Mankind has passed a different judgment upon it,—at least that part of mankind which has any tincture of the spirit of freedom. So we are accustomed to deal leniently with the legendary deliverer of Switzerland, who shot Gessler from an ambuscade; and with Charlotte Corday, who killed Marat in his bath. The great writer on political science, Bluntschli, says, in commenting on these instances, we excuse the murderer when he commits his deed to free a people from an insufferable tyranny, against which there is no other remedy; when Spinoza's saying is applicable, "One must kill tyrants as one does a mad dog."¹

In the light of history, then, it will not do to say that a crime against a despot cannot possibly have such a complexion as would justify us in regarding it as different from ordinary crimes against the person. But is not the day of despots over? it may be asked. Is not the Czar simply a good, benevolent ruler, doing the best he can for his poor people?—so that, even granting what I have said, is it not without application to the present case, as in Russia there is no political oppression, any more than in the United States, and assassination of the Czar from political motives is as little thinkable as assassination of the President of the United States? Now, against the

¹Politik, pp. 20-21.

private character of the present Czar I have nothing to say, and it may well be that nothing can be said. He is said to be an excellent husband, a loving father, and to have an antipathy to all kinds of untruthfulness, immorality, and frivolity. Even were this not so, his life as a private man is as sacred as that of any other man; and were it assailed as the lives of other private individuals are assailed, the assailant should be returned, if he flies away,—provided, that is, he is sure of a fair trial. But the Czar is not a private individual merely, and with his private life we have nothing to do. Charles I., of England, was an exemplary man, according to ordinary standards,—even benevolent and of great purity of character; but this did not prevent him from being a tyrant. The question is, What is the Czar as the head of the Russian government,—what is any Czar, so long as the present system of government is continued? For the question is not a personal one at all. There is an ethics of government as well as of private life; there are right and wrong ways of ruling, and to rule in such a way as to suppress the liberties of the people is a high crime, according to the conscience of civilization: What is the Czar as the Russian government?—for, according to the Russian Constitution, the Czar and the government are one and the same thing.

The character and methods of the Russian government may, perhaps, best be indicated by stating a few facts. In 1891 \$200,000,000 were spent on the army and navy; \$9,000,000 went to pay the personal expenses of the Czar, and \$2,892,000 were set aside for common schools for over a hundred million of his people. (In that year the United States spent \$140,000,000 on common schools for sixty-five million of people.) There are some assemblies elected by the people, but these assemblies can do nothing

of which the Czar does not approve, so that anything like laws really representative of the people's will do not exist. The press is under strict censorship. From 1865 to 1880 (during the so-called liberal administration of the predecessor of the present Czar), the Press Council gave one hundred and sixty-seven warnings and suspended fifty-two newspapers.¹ There is scarcely an independent, certainly no outspoken liberal, organ to-day. The spirit of Alexander III. is practically the same as that of Catherine II., who, in speaking of Radischev, the first Russian liberal, said that "worse than Pongachev [a notorious Russian rebel] he *praises Franklin*," and who proceeded to sentence him to death for publishing his "Journey from St. Petersburg to Moscow," which drew a gloomy picture of the state of Russia at the time, and demanded as a remedy representative government, the abolition of serfdom, freedom of the press and of conscience, open trial by jury, etc. (though the sentence was commuted to exile to Siberia).

Religion is no more free than the press, when it does not please the Czar to have it so. To take one instance, the Stundists are a rapidly-growing sect, numbering already several millions. There is nothing political in their constitution, and they are said to be particularly loyal. Their views are Protestant and rationalistic, with tendencies towards a social but rarely socialistic reformation. A congress of orthodox ecclesiastics a year or two ago came unanimously to this decision with reference to them,—viz., that sermons and propaganda against them were insufficient, and that it was necessary to have the help of the police for the administrative punishment of them. The Czar backs up

¹Noble's "Russian Revolt," p. 233.

these bigots ; he is practically, if not technically, the head of the church, and punishes those who attempt to leave it. The Stundists he, on occasion, imprisons, flogs, irons, deprives of their civil rights, and exiles to Siberia. The story of the persecution of the Jews is well known to you. Their recent expulsion from Moscow was an almost incredible piece of barbarity. In one quarter of the city it was carried out by foot-police, mounted Cossacks, and firemen. When all avenues of escape had been closed, the whole quarter was ransacked, apartments were forced open, doors were smashed, and every bedroom searched, the occupants being subjected to all sorts of indignities. Then seven hundred men, women, and children were dragged at dead of night through the streets to the police station, and there, without being given time to dress themselves, kept in noisome and overcrowded confinement for thirty-six hours, almost all without food. Such is the benevolent, paternal character of the Russian government.

Mr. Harold Frederic, who tells this in a book published last year with the title "The New Exodus," says that "nobody in Russia dreamed of paying any debt to a Jewish trader or artisan these eighteen months," and that the sums due throughout the empire to individual Hebrews, who have been driven out of their homes, no kopeck of which they can ever hope to see, would in the aggregate mount up to many millions." It is said that the Jews are usurers. A Russian diplomat in Washington, in a recent article in one of our monthly magazines, containing more than one diplomatic equivocation, hints at this when he says that the Hebrew question in Russia is neither religious nor political, but an economical and administrative question. But if so, why does not the government proceed against other usurers? There are plenty of usurers against whom it takes—to use the polite lan-

guage of diplomacy—no “administrative” measures. Yes, if it is anxious to take the load of financial oppression off the backs of its poor subjects, why does it not take itself off?—for it is the worst usurer and oppressor in existence. The peasants have sometimes to pay nearly all they get from the land in the shape of interest and taxes to the government. In fact, this apology from diplomats, from those who know, is, to use ordinary, undiplomatic language, a lying pretence.

And if the peasants are ground down in the country, the workingmen in the cities and towns are little better off. They earn on the average four roubles (or two dollars) a week, and the women two-and-a-half roubles (or one dollar and twenty-five cents), working thirteen to fifteen hours a day, and, if they complain, there are laws rendering participation in strikes punishable with imprisonment. Such is the paternal solicitude of the Russian government for its subjects!

And now, when a Russian of liberal mind protests against all this; when he asks for reforms; when, above all, he tries to enlighten the peasantry or the working-class, and to make them honorably discontented with their lot, what is the result? Three years ago a Russian woman of education, the editor of a magazine published in St. Petersburg, sent a letter to the Czar, calling upon him, in moderate and dignified language, to institute freedom of speech, inviolability of personal rights, freedom of assembly, open courts, ample opportunities for education suited to all capacities, prevention of administrative license, and a national assembly, in which all classes shall be represented by delegates of their own choosing,—these are the only things that would save the state.

"You are an autocratic Czar," she wrote, "restrained only by the laws which you yourself make and alter, or by officials who do not execute them, but whom you yourself appoint. One word from you and there will be a change in Russia which will leave a bright page in history."

She closed with these words,—

"Your majesty is one of the mightiest monarchs of the world. I am only a working unit in the hundred million whose fate you hold in your hands; but, nevertheless, I feel that it is my moral right and my duty to say to you what I have said."

What was the reply of the Czar? She was arrested and sentenced to exile in Siberia. O brave, chivalrous monarch!

A few years earlier there were agrarian troubles in one of the northern districts. Some of the notables of the district were invited by the Czar to explain the trouble, and submit plans for its relief. These men lived a long way from the courts, and did not know that telling the truth was out of fashion. They replied in good faith, saying that the grievances were well founded, and submitted a plan for their redress which entailed the institution of a local elective assembly. What was the result? One and all were arrested; some were sent to Siberia, some to fortresses on the Baltic, and not one of them was again seen in that district.

Alexander II. is called by the Russian diplomat at Washington, to whom I have referred, a "magnanimous sovereign;" he liberated millions of serfs, or, as a clever Washington woman, who has perhaps experienced this diplomat's blandishments, puts it in nervous English, he, "with one stroke of the pen, emancipated all the serfs of Russia." But this great liberator pursued as narrow and oppressive a policy during the last fifteen years of his life as ever his successor has since, and a few months after

his assassination the New York *Nation*, usually careful in its statements, could say that during the two previous years thousands of persons had been subjected to horrible punishment, not only without trial or investigation, but often without being made acquainted with the charge against them. (And against all *this*, unfortunately, the exemplary private life of Alexander II. cannot be appealed to.)

And how does even a traveler fare in the Russian dominions? Those who would like an answer should read Mr. Poultney Bigelow's article in the January *Harper's* on "Why we left Russia," and what a friendly Russian said to him when he expostulated over the indignities he had experienced.

"In Russia we are far ahead of Western Europe," this gentleman explained "We have copied lynch-law from America, only here the government does the lynching. When a man is obnoxious, reads or writes or talks too much, we do not bother about courts and sheriffs. He disappears—that is all. When his friends come to inquire after him, the government shrugs its shoulders and knows nothing about it. He has been killed by robbers, perhaps, or he has committed suicide! The government cannot be held responsible for every traveller in Russia, of course. When a military attache is suspected of knowing too much about Russian affairs, his rooms are always broken into and ransacked. Not by the government,—oh, dear, no! That would be shocking! It is always done by burglars. But, odd to say, the Russian burglars always care particularly for *papers* and *letters*. The German military attache has had his rooms broken into twice in this manner, and to prevent a third invasion he assured the chief of police that there was no use doing it any more; that he really never kept any important papers there. Since then he has not been troubled by official burglars."

But enough of this. Who wonders that, in face of conditions like these, men who love freedom sometimes grow desperate? It is easy for us over here to say, "Agitate peacefully;" but if you agitate ever so peacefully you are none the less in danger of exile or the scaffold. Spread

ideas, we may say, do not use force; but ideas are a crime in Russia, and for a thought, if uttered, the iron heel of the despot may be upon you. Change the laws, we may say, but do not break them; but freemen in Russia have no right to make laws. Petition for a redress of grievances, then; but petitions are unheard, perhaps unread,—or, if read, only to punish you for your insolence in making them. Rise in arms, then; but you cannot rise in arms in Russia. Unhappy people, which way shall they turn? If they become sycophants, all may go well with them. Or if they turn to the peaceful walks of literature, or of science or of art, they may be unmolested. If they give themselves up to charity, and feed the sufferers by famine, they may be sweetly patronized,—and Americans who come bearing alms may be also. Or if they sink to a merely brutish life, content to eat and sleep and labor, and never complain, they may be affectionately treated and called “my poor people,” and be piously told of another world where things will go better with them. But if they breathe a thought of freedom, beware! If they dare be men,—men with live red blood in their veins, “men who their duties know, but know their rights” as well, if they venture an aspiration like that of our forefathers of 1776, or make a demand such as citizens of America make every day, then let them steel their hearts, for dreary exile, or dungeons or death are before them. Men, sometimes the best men, grow mad under such alternatives; they do wild things, criminal things; but if there is a day of judgment, more criminal than they will be those who instituted, carried on, anywise supported, the system of things that drove them mad.

I do not defend, I do not justify, any act of assassination that was ever committed, whether in Russia or elsewhere. I trust I am not without due feeling for the

sanctity of human life, which is one of the foundations of ethics and one of the bases of civilization, but in the light of what has already been stated it is simply monstrous to say that an attempt against the life of a Czar can by no manner of possibility have the complexion of a political crime. What assassinations in the past have had this character and what have now, I do not undertake to say. I do not know the evidence, I could only speak by hearsay. I simply say that if any such act in the future is, in the light of all the evidence that may be brought to bear upon it, not a crime springing from private malice, but really an attempt to overthrow the government,—a government, too, which must be hateful to every lover of freedom, and which ought not to be even countenanced by a free people, save for economic and interested reasons,—then such a crime should not be reckoned as common murder, and should not be extraditable by any country which has risen above the barbarism of giving up political offenders.

In this spirit, then, and with this understanding of what is involved in it, I oppose the treaty with Russia. Is such a position unheard of? Even if it were, it would have to stand on its own merits as a just position; but, as a matter of fact, it is a position that has been practically taken by those two nations that have stood most consistently for freedom in the modern world,—England and Switzerland. In 1858 the Italian patriot Orsini attempted to assassinate the third Napoleon, believing him to be the chief stumbling-block in the way of Italian independence and the principal cause of the anti-liberal reaction in Europe. The maker of the bomb with which the attempt was made was in England. He was, according to the principle of common law, an accessory before the fact and equally guilty with the thrower of the bombs. But

England refused to give him up. We should not have the right to make such a refusal in case of a similar complication with Russia, and Napoleon was a mild despot compared to a Czar like either of the Alexanders. Again, as late as November, 1890, a bench of English judges were called upon to consider the demand of the Swiss government for the extradition of a man who was proved to have shot a member of the ministry during a revolution excited by the liberals in the canton of Ticino. Some evidence was presented showing that the accused was moved by private malice, but the judges held that his act was *prima facie* political, and gave him the benefit of the exception under the treaty. Our treaty with Russia is peculiar in that the Czar has a sanctity thrown about *his* person that no minister of his or official in his government acquires. A crime against him or any member of his family is bound to be common murder, but the same directed against any of his subordinates our government is not obliged to treat as extraditable. The treaty has thus the air of a sort of personal tribute to the Czar, such as those might have arranged who have been guests in his house or otherwise marked with his favor. It is a great triumph of diplomacy, I make no doubt.

Let me also cite one instance in which France acted on the principle for which I am contending. In 1879 Hartman made an attempt to blow up the Czar by a mine under the railway lines at Moscow. He fled to Paris, where a demand was made by the Russian government for his extradition. It is interesting to note that the charge brought against him was that of "damaging public property,"—a common-law offence. The French government was about to hand him over on this charge, when Hartman succeeded, by means of documents in his possession, in showing that his offence was political in its na-

ture; a formidable public agitation followed in his favor, and the government was obliged to set him at liberty. And apart from all particular instances, it is almost universally admitted that each government on whom a demand may be made should have discretionary power in deciding to what category any given crime may belong. France, when under Napoleon III., made three or four treaties with second-class powers, in which it surrendered this power. But America has the unenviable distinction of being the first free people to do this, first with Belgium and Luxembourg in 1882 and 1883, and now with the Czar of all the Russias. England has never done it, and I venture to say never will. When Switzerland was asked by President Thiers in 1871 for the surrender of persons charged with murder, arson, and robbery in Paris during the Commune, it replied that the right of asylum would not be refused to mere political offenders, and that each case would be acted on as it arose, persons demanded being held in custody a reasonable time, till it could be determined whether they were to be classed as ordinary criminals or as merely political offenders.¹ This is the whole principle for which I now contend, and while there may be no practical danger in disregarding it with a constitutional government like Belgium, there is grave danger in disregarding it and tying our hands in dealing with a despotism like Russia. Yes, we have done with Russia what we refused to do with England. In 1886 we refused a treaty with England because it contained a clause providing for the extradition of dynamiters as common-law offenders. As it would appear, our government did not wish to bind itself; it wished to be free to judge of any special case on its merits; but with Russia

¹Moore "On Extradition," vol. i., pp. 311, 312.

we are willing to bind ourselves ; we are ready to say that no violence *against the Czar* can be anything but a common-law offence. What a strange, unnatural preference !

But there is a more outrageous aspect to this whole business still. We by this treaty agree to hand over to Russia any one who makes an attempt on the life of the Czar as a common criminal ; but when he reaches Russia he is not tried as a common criminal,—that is, by a jury, and with the safeguards of ordinary law procedure, but by an extraordinary tribunal. The very same law which instituted the jury deprived the ordinary tribunals of jurisdiction in the case of all crimes against the Emperor and the Empire. These crimes are tried before courts without a jury. The gravest of them may be taken before a special court of the Senate, and as the Senators are appointed by the Czar, the Czar, acting through his creatures becomes at once accuser and judge. Recourse may even be had to military tribunals. A ukase of 1878 gave provisionally all crimes against the state, as against its functionaries, over into the hands of courts-martial. Even this was not sufficient. The ordinary methods of courts-martial were too slow. According to a ukase of 1879, the accused could be tried without previous inquest, and condemned without oral testimony of witnesses. The assassins of General Strelnikof, in 1882, were judged and executed in twenty-four hours. Capital punishment for ordinary crime (murder included) has long been abolished in Russia, it should be observed. But for political crime it has been re-established. We say it is hard to draw the line between political crime and ordinary crime, that murder is murder, against whomsoever committed. Russia does not think so ; it is only murder directed against the head or an official of the government that (along with other political offences) is punishable

with death, and political crime (according to the Russian constitution) might be said to be defined as that species of crime which is dealt with by these extraordinary tribunals. Yet the United States government is binding itself to treat as common crime what in Russia would be tried as political crime, and in dealing with which everything is exceptional,—the tribunal, the procedure, and the penalty. The French writer, from whom I have taken this information, Leroy-Beaulieu, says,—

"In thus placing the conspirators beyond the pale of common law, in creating specially for them a Draconian legislation, the Russian government has forgotten that in dealing with other nations it has singularly weakened its demands for extradition, founded on treaties and common law."¹

But no; with the government at Washington Russia has apparently not weakened its demands; and we are either so stupid and ignorant, or else so lost to self-respect and to republican traditions, that we have accepted the treaty, and now stand before the world as the sole ally among free peoples of a despotism, the like of which does not exist in the Western World.

The Institute of International Law, which is composed of the great jurists of Europe, took up this very question of political offences at its meeting in Oxford in 1880, and, at the conclusion of a careful and conservative statement, said, "In every case extradition must not be granted for a crime which has at the same time the nature of a political crime and of a crime under the ordinary law, unless the *state making the requisition gives the assurance that the person surrendered shall not be tried by unusual courts.*"²

¹L'Empire des Tsars et les Russes, vol. ii., p. 420.

²The italics are, of course, mine. See Moore "On Extradition," vol. i., p. 313, note.

But Russia tries crimes against the Czar entirely by unusual courts.¹

I am in doubt whether I ought not to go still further. I seriously question whether we ought to have any treaty at all with Russia for the extradition of criminals. It does not belong to the company of civilized governments. There are no guarantees of fair trial, even for ordinary crime, in its jurisdiction.² The right of trial by jury does not extend to Poland, the Caucasus, and several other departments of the empire. Russia does not allow our own citizens, who happen to be Jews, to enter its domain, or at least to stay more than a few hours. What has liberal America in common with such an intolerant despotism? Let us have a commercial treaty, if our business interests require one; let us by all means settle peaceably differences about territory, Behring Sea troubles and the like; let us keep up our "historic friendship," so-called, for all it is worth in these regards; but beyond this it may be better for us to have as little to do with Russia as possible, save in so far as we may help her people in time of famine, or as private individuals among us may unite to agitate against her and her shameful barbarism.

Jefferson may have gone too far, but I think he came nearer to the true American spirit than does our degenerate Senate of to-day, when he said (as Secretary of

¹It is possible that the Treaty, when given to the public, will be found to contain a statement in accordance with the resolution of the Institute of International Law above quoted. But the Treaty projected in 1887 contained no such provision. On the other hand, Wheaton's "International Law" says, "The United States have treaties of extradition with nearly all civilized nations. These treaties have the common feature of never including, and usually expressly excluding, surrender for political or military offences, or *offences triable by military or summary courts*, and of not including petty crimes and misdemeanors." (Dana's ed., 1866, §115, n. 73.)

²Political Science Quarterly, Dec., 1892, p. 699.

State), in answer to the demand of citizen Genet for four Frenchmen, who had escaped from a French war-vessel after (an alleged) plotting against the republic,—

"The laws of this country take no notice of crimes committed out of their jurisdiction. The most atrocious offender, coming within their pale, is received by them as an innocent man, and they have authorized no one to seize or deliver him. The evil of protecting malefactors of every dye is sensibly felt here, as in other countries, but, until a reformation of the criminal codes of most nations, to deliver fugitives from them would be to become their accomplices; the former, therefore, is viewed as the lesser evil."¹

It may be well to have ordinary non-political extradition treaties with liberal and enlightened countries, like England and France and Switzerland,—possibly with all other countries with whom we have made them,—save Russia. But with Russia the case changes. England, unless I am quite mistaken, has no extradition treaty with Russia whatever, and eleven years ago, as I am credibly informed, when there was talk in London of proposals from Russia for an ordinary, non-political treaty, public opinion would not hear of the project, and it fell through. I cannot help thinking that it would be more dignified, more in keeping with the free spirit of Anglo-Saxon political institutions, for our government to refuse an extradition treaty with Russia, till it becomes a member of the company of civilized and constitutional states. I may be wrong about this, however, and about only one thing am I sure that I am right. There ought to be no such treaty as the Senate ratified on the 9th of February last, and now only awaits the formality of an exchange of ratifications between the respective governments to become binding law. Unless it is different from what it has been supposed to be on the capital point, it is a disgrace to the nation.

¹Clarke on "Extradition" (3d edit.), p. 35.

I know I run the risk of being more or less misunderstood in what I have said, though I have tried to make my positions so clear that a wayfaring man, though a fool, could see what they are. I have had a single specific question in mind. I have not sought to solve the problem of Russia, though I am perfectly clear that assassination is no way out, but is as useless and senseless as it is wrong. I have simply asked, *Is an attempt to take the life of the Czar necessarily common murder? Is our government justified in prejudging that question and putting it beyond its power to pass on any particular case as it arises? And is it honorable, is it just, is it even honest, to give up a person who, though not a political criminal in our eyes, is a political criminal in the eyes of Russia, and will be dealt with not even according to common-law justice, where the safeguards are scanty enough, but according to extraordinary justice, where the safeguards are as good as non-existent?* These are the points to which I have spoken and till further light is given me, I am ready to stand by my answers to them. I have spoken as an American, jealous of my country's good name and fame, and indignant when she leaves her queenly place among free and progressive peoples, and stoops to be the cat's-paw of a despot. *Sursum corda*—lift up thy heart, O America, and know that in the scheme of the Eternal Providence thou art made for better things than that.

And yet I cannot keep my thoughts from going to Russia,—not now in anger, not in resentment, but in sympathy and pity. How simple, how innocent the demands of the party of reform there, how heavy and how sullen the weight which opposes them! The very terrorists, the Executive Committee who decreed the death of Alexander II., in a letter which they addressed to his successor a few days after the dire event, only asked for

amnesty to political offenders, for a convention of representatives of the people, for free speech, free meeting, free press, and the right of any electoral platform, and solemnly declared that in case these concessions were made they would abide by the decision of the representatives of the people and no more appeal to physical force. "Believe, your Majesty," they exclaimed, "that as soon as the Czar ceases to be absolute, as soon as he decides to follow the demands of the people, he may confidently discharge his spies and his guards, and burn the scaffolds." And when later in the same year President Garfield was assassinated, the organ of the Russian Revolutionary party (the so-called Nihilists) published on its first page a black-bordered announcement of the death of the President, with the following declaration under it: "Whilst expressing to the American people its deep regret at the death of President James Garfield, the Executive Committee feels it its duty to protest in the name of the Russian Revolutionary party against all acts of violence similar to that just perpetrated. In a country where the citizens enjoy the right of freely expressing their opinions, and where the will of the people not only makes the laws, but chooses the persons who are to execute them,—in such a country political assassinations are the manifestation of despotic tendencies identical to those to the destruction of which we are devoting our lives in Russia. Despotism, whether wielded by individuals or by parties, is equally condemnable, and violence is justifiable only when opposed to violence."¹

Members of the Ethical Society and friends, unless these words were written by tricksters (which there is no reason to believe), they and such as they are the men

¹*Narodnaia Volia*, October 23, 1881.

(and women, perchance) who, under normal conditions, would make the best blood of a state. Who can tell what Russia has lost and is losing by her barbaric and inhuman political methods? What France suffered when she drove out her Huguenots, Russia is suffering by the brave, great-souled men and women she is exiling to dungeons and Siberian snows, or driving to madness and suicide. May a remnant still survive! Let freemen in America arise and give a greeting to their brothers across the sea. Though their hearts are low, though they die, let us give them Hope, and despite the darkness, despite their doubts and their fears, and despite our own, let us cry out with them, "Long live the Russian Republic!"



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